

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.: 05-10403DPW

LLOYD F. AUDETTE,)
Plaintiff,)
)
V.)
)
UMASS CORRECTIONAL HEALTH,)
A Commonwealth Medicine Program,)
Defendant, and)
)
DEPARTMENT OF CORRECTONS)
Kathleen M. Denney, Commissioner,)
Defendant,)
)

**DEFENDANTS, UMASS CORRECTIONAL HEALTH'S
ANSWER TO COMPLAINT AND JURY TRIAL DEMAND**

FIRST DEFENSE

The Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The Defendants, UMass Correctional Health, (the "Defendants"), responds to the allegations of the Plaintiff's Complaint as follows:

INTRODUCTION
JURISDICTION

1. This paragraph calls for a conclusion of law, and thus, no response is required. To the extent a response is deemed necessary, the Defendants deny any and all allegations of wrongdoing.

2. This paragraph calls for a conclusion of law, and thus, no response is required. To the extent a response is deemed necessary, the Defendants deny all allegations in this paragraph of the plaintiff's Complaint.

PARTIES

3. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

4. The defendant admits that UMass Correctional Health provides certain medical services to inmates within facilities of the Department of Correction. The defendant further admits that it maintains an office at One Research Drive, Suite 120C, Westborough, Massachusetts. The defendant denies the remaining allegations set forth in this paragraph of the plaintiff's complaint.

5. This paragraph does not set forth any factual allegations against this defendant and thus, no response is required. To the extent that a response is deemed necessary, the defendant denies any and all allegations of wrongdoing.

FACTS

6. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. To the extent this paragraph alleges any negligence of any wrongdoing on the part of this defendant, the allegations are denied.

7. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. To the extent this paragraph alleges any negligence of any wrongdoing on the part of this defendant, the allegations are denied.

8. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. To the extent this paragraph alleges any negligence of any wrongdoing on the part of this defendant, the allegations are denied.

9. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph. To the extent this paragraph alleges any negligence of any wrongdoing on the part of this defendant, the allegations are denied.

10. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

11. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

12. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

13. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

14. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

15. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

16. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

17. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

18. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

19. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

20. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

21. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

22. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

DAMAGES

23. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied. Moreover, the defendant denies that the plaintiff is entitled to any of the relief requested in this paragraph of the plaintiff's complaint. Moreover, the defendant denies that the plaintiff is entitled to any of the relief requested in this paragraph of the plaintiff's complaint.

COUNT I CLAIM FOR RELIEF UNDER THE AMERICAN DISABILITIES ACT TITLE II OF 1990, 42 U.S.C. §§ 12101 et. seq.

The defendant repeats the responses in Paragraph 1-23 as if separately set forth herein and at length.

24. To the extent that the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

COUNT II
CLAIM FOR RELIEF UNDER THE AMERICAN DISABILITIES ACT
TITLE II OF 1990, 42 U.S.C. §§ 12101 et. seq.

(a)-(d) To the extent that the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

CLAIMS FOR RELIEF UNDER THE EIGHTH AMENDMENT
OF THE UNITED STATES CONSTITUTION

The Defendant repeats the responses in Paragraphs 1-26 as if each were separately set forth here and at length.

27. To the extent the allegations in this paragraph of the plaintiff's complaint are intended to apply to this defendant, they are denied.

VI. The defendant denies that the plaintiff is entitled to any of the relief requested in this portion of his complaint.

VII. The defendant denies that the plaintiff is entitled to any of the relief requested in this portion of his complaint.

THIRD DEFENSE

The Defendant denies that the plaintiff is entitled to any of the relief requested in her Complaint.

FOURTH DEFENSE

By way of affirmative defense, the Defendant says that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct this Defendant was not and is not legally responsible.

FIFTH DEFENSE

By way of affirmative defense, the Defendant says that the action is barred by the applicable statutes of limitations.

SIXTH DEFENSE

By way of affirmative defense, the Defendant says that the action should be dismissed because of lack of jurisdiction over the Defendant.

SEVENTH DEFENSE

By way of affirmative defense, the Defendant says that the plaintiff, by her conduct and actions and/or the conduct and actions of her agents and servants, is estopped to recover any judgment against the Defendant.

EIGHTH DEFENSE

By way of affirmative defense, the Defendant says that the plaintiff, by her conduct and actions and/or the conduct and actions of her agents and servants, have waived any and all rights she may have had against the Defendant, and, therefore, the plaintiff cannot recover in this action.

NINTH DEFENSE

By way of affirmative defense, the Defendant says that the plaintiff consented to the Defendant's alleged conduct, acts and statements and, therefore, the plaintiffs cannot recover.

TENTH DEFENSE

By way of affirmative defense, the Defendant says that it is protected from liability by qualified immunity for any of the matters raised in the plaintiff's Complaint.

ELEVENTH DEFENSE

By way of affirmative defense, the Defendant says that the plaintiff failed to properly present his claim pursuant to the requirements of the Massachusetts Tort Claims Act M.G.L. c. 258 § 4.

TWELFTH DEFENSE

By way of affirmative defense, the Defendant says that the plaintiff failed to exhaust his administrative remedies as required by 42 U.S.C. § 1997 (e)(a).

WHEREFORE, the Defendant requests that all counts of the Complaint be dismissed and that it be awarded costs, attorney's fees and such further relief as this Court deems appropriate.

JURY TRIAL DEMAND

The Defendants demand a trial by jury as to all issues to which it is entitled as a matter of right.

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each (other) party by mail on this _____, day of _____, 2005

/s/ James A. Bello

James A. Bello

Respectfully submitted,
The Defendants,
UMASS CORRECTIONAL HEALTH
By its attorneys,

/s/ James A. Bello

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